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Initial training of judges and prosecutors in the European Union

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General description

Firstly, it should be noted that it is difficult to give precise information in this regard as competence for detailed questions of initial legal training lies with the *Länder* (our federal states). The German Judiciary Act (*Deutsches Richtergesetz*, DRiG) contains only fundamental rules concerning the initial training of jurists. The details are regulated by the laws of the 16 *Länder*.

According to the DRiG, initial legal training in Germany is designed as a common training for all legal professionals; it is undertaken in two stages: university studies (*Studium*) and practical training in the preparatory service (*Vorbereitungsdienst*).

You can find the exact details in sections 5, 5a to 5d and 6 DRiG, see attached the DRiG in English translation.

Access to the initial training

In order to be able to study law, a general university entrance qualification is required. Students obtain this on completing the *Abitur* or an equivalent qualification. The choice of certain school subjects, however, does not affect enrollment.

Format and content of the initial training

1. University studies

The university studies stage, which is in general aimed at providing students with a basic knowledge of civil, criminal and public law (including the historical, philosophical, social and economic aspects of those subjects in order to offer an understanding of the legal and judicial system as a whole). Students are also trained in the methodology of analysing facts, applying the law, and finding a just solution in a given case. The studies end with the First Examination in Law (*Erste juristische Staatsprüfung*), which consists of written and oral examinations. The competent authorities for the First Examination in Law are the legal examination authority in each *Land* (*Landesjustizprüfungsamt*) and the university where the candidate studied. The examination authorities are responsible for carrying out exams.

For the First Examination part, the candidates have to sit between five and seven exams (depending on the *Land*), each one lasting five hours. The exams are comprised of fictional cases that are based on real legal cases, which the candidates are required to solve in the form of a legal opinion. Subsequently, they are required to complete an oral examination, which makes up between 63 and 75% (depending on the *Land*) of the overall result.

2. Traineeship

After passing the First Examination (which almost one quarter of the candidates fail), almost all candidates enter preparatory service, which lasts two years and is organised individually by the justice departments of the 16 *Länder*. Every candidate who has successfully completed the First Examination has the right to admission to preparatory service. However, applicants may have to wait because there are not enough training places, particularly at the courts. During this practical training, they receive monthly remuneration paid from treasury funds. The goal of the preparatory service is to introduce the participant (trainee, "*Referendar*") to the reality of the different legal professions. It is important to note here that the service is common to all future members of the legal professions, lawyers, judges, public prosecutors, notaries, lawyers in government and so on. Also, the goal is to have a comparable standard of training with an equivalent final examination, the Second State Examination. The trainee will go through several stages – at a civil court, at a criminal court (or public prosecution office), in a practicing lawyer's chambers, at an administrative authority and at an agency of his or her own choice. Although the training is principally of a practical nature, it cannot be denied that only certain aspects of practice are dealt with, which are, however, of great importance.

During the various training stages, trainees are as a minimum made familiar with procedural law.

Termination of the initial training and qualification process

To a greater extent than with the First Examination, knowledge and skills are tested in regard to procedural law in the Second State Examination in Law (*Zweites Juristisches Staatsexamen*). As a rule, the drafting of a judgement or a bill of indictment, based on a real file, form the core of the written examinations. In the oral examinations, cases are again studied with a certain focus on practical questions. The Second Examination is also not easy, although the failure rate is much lower (about eight percent). Nearly 10,000 trainees pass the Second State Examination each year.

For the Second State Examination, the candidates have to sit between eight and eleven written exams each lasting five hours; the written examination makes up between 60 and 75% of the final mark. In most of the *Länder*, the candidates have to sit exams in which they are required to solve a given case. Quite often they have to give a judgement. In the oral examinations in some *Länder*, candidates are required to respond to questions of law. In other *Länder*, they are also required to prepare a file and present their result to the examiners. Different systems apply. In contrast to the First Examination, most of the *Länder* now allow the use of predetermined commentaries in the Second State Examination in Law.

The Second State examination of Law confers the "qualification for judicial office" (*Befähigung zum Richteramt*). In spite of the term, this qualification is the prerequisite for practicing nearly all legal professions, as provided by statute. Having attained the qualification for judicial office, the candidate is able to apply for the position of a judge or prosecutor in the *Länder*. The preconditions for appointments of judges in Germany are set out by Section 9 of the German Judiciary Act. Beyond this, each *Land* establishes more precise provisions (grades in both examinations, further qualifications demanded, job interviews or assessment centres) to select the best candidates."

For more information, please see Division 2, sections 5 and 6 of the [German Judiciary Act](#).

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